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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,434	05/02/2001	John M. Belcea	1710.21	2558
7590 05/17/2005 ROYLANCE, ABRAMS, BERDO & GOODMAN, LLP 1300 19th Street, N.W., Suite 600 Washington, DC 20036			EXAMINER LY, ANH VU H	
			ART UNIT 2667	PAPER NUMBER

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary	Application No. 09/846,434	Applicant(s) BELCEA, JOHN M.	
	Examiner Anh-Vu H Ly	Art Unit 2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-72 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 51-54, 59-62 and 65-72 is/are rejected.
- 7) ☒ Claim(s) 55-58, 63 and 64 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/7/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claims 63-65 are objected to because of the following informalities:

With respect to claim 63, in lines 6-7, "said registration message" and "the last time slot" lack antecedent basis.

With respect to claim 64, in line 5, "tine" should be changed to - -time- -.

With respect to claim 65, in line 1, "In a protocol" should be changed to - -A protocol- - to be consistent with the preamble of dependent claims 66-72.

Appropriate correction is required.

Double Patenting

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 51, 53-54, 59-61, and 65-72 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 8-9, 12-13, 33, and 41-48 of prior U.S. Patent No. 6,807,165.

This is a double patenting rejection.

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686

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F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 52 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6,807,165 in view of Narvinger et al (US Patent No. 6,868,075 B1). Belcea ('165) discloses a protocol for use in an ad-hoc, peer-to-peer network that provides collision free channel access. Belcea does not disclose wherein inter frame time gap has a length different than time slots. Narvinger discloses in Figs. 7-10 that the inter frame time gap has a different length than time slots of the frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include an adaptive inter frame time gap in Belcea's system, as suggested by Narvinger, to accommodate different transmission delays in wireless network.

Claim 62 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 33 of U.S. Patent No. 6,807,165 in view of Narvinger et al (US Patent No. 6,868,075 B1). Belcea ('165) discloses a protocol for use in an ad-hoc, peer-to-peer network that provides collision free channel access. Belcea does not disclose making the length of inter frame time gap longer than the lengths of time slots. Narvinger discloses in Figs. 7-10 that the inter frame time gap has a different length than time slots of the frame. It would have been obvious to one having ordinary skill in the art at the time the

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invention was made to include an adaptive inter frame time gap in Belcea's system, as suggested by Narvinger, to accommodate different transmission delays in wireless network.

Allowable Subject Matter

4. Claims 55-58 and 63-64 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Li et al (US Pub 2003/0087603 A1) discloses framing method and the synchronous wireless system therewith.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh-Vu H Ly whose telephone number is 571-272-3175. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

avl



CHI PHAM
SUPERVISORY PATENT EXAMINER
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8/24/05